

The Top 10 Ways to Attract Audit Unit Attention

Presented by the California Division of
Workers' Compensation ~ Audit Unit
for the
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Conference

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10 Prior audit results

Audit performance fails to meet or exceed the worst
10% of performance ratings of audits conducted in 3
years prior to audit commencement

Failure of an audit conducted pursuant to LC§129(b)(2)
shall be the basis for a return target audit

A claims administrator is subject to return audit within
2 years of finalization of a failed audit

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[9 No returned DWC Form 1]

Filing of DWC Form 1 provides for:

- Presumption of compensability if claim not denied within 90 days of filing
- 10% self-imposed increase on late paid indemnity under LC§ 4650
- Medical evaluation under LC§4061 & 4062
- Provision of \$10,000 in medical treatment within 1 day of filing, until decision of compensability is made for claim LC§5402(c)

A claim file should document provision of the claim form and follow-up for filing

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[8 Complaints of claims handling]

Final WCAB decisions for LC§5814 penalties and/or credible complaints can be the basis for a target audit 8CCR§10106.1(c)(2) & (3)

An employer or insurer that knowingly violates LC§5814 with a frequency indicating a business practice may be liable for an administrative penalty under LC§129.5 or LC§5814.6

The WCAB will provide a report to the Audit Unit for findings and awards involving LC§5814

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[8 Complaints of claims handling *(continued)*]

Complaints and penalties are tracked by adjusting location with consideration of the total number of claims reported for a given location

Complaints alleging claims handling practices for not complying with workers' compensation law can be the basis for a civil penalty investigation/audit

The Audit Unit may contact an administrator to facilitate the analysis of alleged claims handling issues

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[7 Faulty benefit notices]

8CCR§§9810 – 9815 detail the requirements for benefit notice provision. Violations can be cited for:

- Failure to provide
- Late provision
- Inaccurate or incomplete information

Failure to comply with regulations for the provision of the first payment of SC affects Factor #2 of the performance rating of a PAR audit subject
8CCR§10107.1(c)(3)(A)

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6 WCAB Award (non-compliance)

8CCR§10111.2 (a)(10) provides that the administrative penalties for unpaid or late paid indemnity assessed under 8CCR§10111.2(a)(1) – (9) will be doubled if the violation was for non-compliance with an award of the WCAB

8CCR§10111.2 (b)(24) defines administrative penalties for late or unpaid interest and/or failure to comply with for failure to fully comply with an award or order of the WCAB not involving the payment of indemnity to the injured worker

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5 Med treatment & M/L expense

Time frames for payment of or objection to medical treatment and medical legal expense are specified in LC §§4603.2 & 4622, respectively

An uncontested expense must be paid within the designated statutory period

Late and/or unpaid medical treatment and medical-legal expenses shall be paid with interest and increase

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[④ Late-paid Indemnity]

Violations for late-paid indemnity affect the factors for the performance rating of a PAR audit subject

- Factor #2 - Late first or resumed payment of TD [8CCR§10107.1(c)(3)(B)]
- Factor #3 - Late first or resumed payment of PD, VRMA, DB [8CCR§10107.1(c)(3)(C)]
- Factor #4 - Late subsequent (scheduled) indemnity payments [8CCR§10107.1(c)(3)(D)]

If 10% self-imposed increase (SII) is owed, it is to be paid with the late paid TD or PD [LC§4650(d)]

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[③ Failure to investigate]

A claims administrator has both a right and a duty to investigate a claim 8CCR§10109

Investigation may be for determination of overall liability or for provision of a specific benefit

Documentation is critical ~

"If it is not in the file, it did not happen"

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[2 AME/QME and/or SJDB advice]

Failure to comply with regulations for the provision of the AME/QME and/or SJDB advice affects Factor #5 for the performance rating of a PAR audit subject
8CCR§10107.1(c)(3)(E)

There is exposure for penalty:

- Failure to provide
- Late provision
- Inaccurate or incomplete information

Note: As of April 9, 2008, there is exposure for provision of AME/QME advice in many of the benefit notices

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[1 Failure to pay indemnity]

Failure to pay indemnity is Factor #1 for PAR audit subject's performance rating [8CCR§10107.1(c)(3)(a)]

- **Frequency Rate (FR)** ~ the # random claims with violations for unpaid indemnity ÷ # of random claims with accrued and payable indemnity
- **Average Unpaid Indemnity per File (AUPF)** ~ Total amount of unpaid indemnity ÷ # of random claims with accrued and payable indemnity
- **Severity Rate (SR)** ~ AUPF ÷ average unpaid indemnity per file for furthest 3 of the last 4 years audited
- **FR x SR x 2 = Factor #1**

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[1 Failure to pay indemnity *(continued)*]

Unpaid indemnity frequently results from failure to:

- Investigate and document earnings
- Properly analyze a wage statement for calculation of the injured workers' average weekly wage
- Reimburse the EDD
- Pay waiting period
- Pay SII
- Pay accrued uncontested PD

Avoid unpaid indemnity ~ Balance the claim file

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[How to avoid Audit Unit attention]

1. Obtain a wage statement and adjust benefits accordingly
2. Issue benefits through the date of the check
3. Proper calculation of benefits
4. Verification of periods and amounts owed

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[How to avoid Audit Unit attention]

5. Pay SII on late indemnity payments
6. Pay SII on late indemnity payments
7. Pay interest and increase on late-paid medical treatment and medical-legal expenses
8. File **documentation** and investigation of all issues

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[How to contact the Audit Unit]

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